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Official



S/N: 09/398,289

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: H.Melman

Examiner:

S. Al Alam

Serial No.: 09/398,289

Group Art Unit:

2172

Filed: 20 September 1999

Title: APPARATUS AND METHOD FOR SEARCH AND RETRIEVAL OF DOCUMENTS

RESPONSE TO OFFICE ACTION MAILED 10 APRIL 2002

Assistant Commissioner for Patents
Washington, DC 20231

9 July 2002

Dear Sir:

In response to the Official Action mailed 10 April 2002, kindly accept this response to said office action.

Sincerely,

Haim Melman / Inventor.

Response is arranged by order of the detailed action:

1(a).

The examiner argues that Beall teaches a database that contains at least one item representing at least one query – in contrary to the applicant's argument that Beall does not teach the same.

To support his argument the examiner quotes Beall in page 2, lines 14-16 of the office action:

"The selection of a catalog is based on the likelihood that catalog will have the desired item and there must be a standard query [end of quote]"

The applicant respectfully argues that this quotation is obviously presented out of its' context by omitting the last part of the sentence and thus creating a misleading interpretation of Beall.

The full sentence is provided here (column 4 lines 35-40):

"The selection of a catalog is based on the likelihood that catalog will have the desired item and there must be a standard query format for each of the catalogs so that the same search string can be used to determine possible matching against each catalog."

The part missing from the quotation made by the examiner is underlined.

The out of context quote "and there must be a standard query..." implies that the catalog of Beall contains a query.

The in-context quote "and there must be a standard query format for each of the catalogs so that the same search string can be used" implies differently in very obvious and clear words:

- a. Beall refers to a "query format" and not a "query". This is just a small difference of one word omitted in the examiner's quotation but it is a big difference in the meaning of presentation made by Beall.
Reference made to the full context clearly implies that Beall does not present a database containing a query.

b. Beall further explains the "query format" to remove any doubt:

"...there must be a standard query format for each of the catalogs so that the same search string can be used..." (column 4 lines 37-39)

Beal clearly differentiates the "query format" from the "search string" (the search string is the query or, using the applicant terminology, the item representing a query).

Beal does not represent that the database contains the search string.

The applicant respectfully argues that wrong presentations were provided by quoting Beall out of context. Groundless conclusions are presented consequentially.

The applicant also respectfully argues that it has not been shown that Beal represents a database containing an item representing a query, as discussed above. The examiner is requested thereby to allow the claims relating to a database containing an item representing a query.

1(b).

In page 2 lines 17-20 of the office action the examiner writes:

"Applicant has a database that contains at least one item representing at least one query. Examiner interprets this as one database and that one database have one item. This one item may be a product item or item of the query, such a query item 1, query item 2, etc."

1. The applicant appreciates the examiner's agreement that an item representing a product and an item representing a query are different ("This one item may be a product item or item of the query").
2. "Examiner interprets this as one database and that one database have one item".

The applicant clearly and explicitly represents "a database that contains at least one item representing at least one query".

With all due respect, neither the applicant can see, nor the examiner represents the ground for changing the explicit presentation of the applicant with the

miss-representation made by the examiner by omitting "representing at least one query".

The applicant has invested plenty of thinking and time in expressing his ideas as accurately as possible.

The examiner is kindly requested to refer to the applicant's presentations as presented and avoid introduction of foreign interpretations by omitting parts of applicant's presentations.

In page 2 lines 20-22 of the office action the examiner writes:

"In claim 1 the Applicant is broadly claiming at least one item, but is not explicitly claiming whether that item is a product item or item of the query. Applicant is not claiming that query is stored in database".

1. The applicant checked his files for the application sent to the USPTO 9 Sep 1999 and filed as Application 09/398,289 on 20 Sep 1999 and found the following claim 1:

"A database for use in conjunction with information search, whereas said database contains at least one item representing at least one query."

This claim explicitly presents a query item.

2. The applicant also found that the claim for a query stored in a database is present in the following claims: claims 1, 3, 4, 5 and 8.

The examiner is kindly requested to allow the claims and the dependent claims as they specifically claim a query item.

1(c)

In page 3 lines 1-14 of the office action a reference is made to the applicant's arguments and the examiner argues that:

1. The applicant disclosed the feature of storing a query in the database.
2. The features upon which the applicant relies (...) are not recited in the rejected claim(s)

Although the argument quoted by the examiner contains features beyond "storing a query in a database", the applicant's argument was presented explicitly in reference to the feature of "storing a query in a database" (as quoted by the examiner in line 6).

The examiner writes in page 3 lines 12-14 "Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed.Cir. 1993)."

The applicant's disclosure from the specification was clearly presented as additional reference and not as a limitation to be "read into the claims".

The feature of "storing a query in a database" is recited explicitly in claims 1, 3, 4, 5 and 8 as shown above and applies to this section as well..

1(d)

In page 3 line 16 through page 4 line 8 of the office action the examiner argues that Beall teaches a database containing at least two terms and the terms are related through at least one item representing at least one query.

The argument brought by the examiner has already been presented by the applicant in the Reply to office action made on 23 Nov 2002 to demonstrate the opposite:

In lines 58-62 Beall clearly says: "The search string is free-form, meaning that the string may be any combination of alphanumeric characters or search terms. No particular syntax is required for the searching string. The search string may comprise search terms in any order."

The examiner refers to these search terms as terms contained in the database, based on their co-existence in a single query that is composed on the server (related through the query).

Beall clearly does not teach that.

Beall does not claim or describe that the terms in the query are also stored in the database or in any other media whatsoever.

Beall teaches that the terms of the query exist in the query. That all!

In Beall's disclosure any of the terms may or may not exist in the database. Even if such a term happens to be stored in the database for any reason whatsoever, this is completely unrelated to the existence of the terms in a query.

In the current disclosure terms are stored in the database only if they were related through a query prior to their storage.

In Beall's disclosure, storing two terms in the database is absolutely unrelated to the issue of the terms being related to each other in anyway. Certainly not through a query.

The applicant thereby claims that the argument presented by the examiner does not represents that Beall teaches a database containing at least two terms and the terms are related through at least one item representing at least one query.

The examiner is kindly requested to allow the related claims.

1(e)

In page 4 lines 9 - 14 of the office action the examiner quotes the applicant:

"The Applicant arguing that Beall's database does not contain means for attributing of any kind"

This is quoted from section 3 of the reply to office action made on 23 November 2001.

Also here the quotation is presented out of context and as such creates a misleading presentation of the applicant argument.

The full context quotation is provided herein below and represents a structured argument which refers to more than "Beall's database does not contain means for attributing of any kind":

"It is understood that the office action represents that Beall teaches a database that contains at least one datum, at least one item representing a query and means attributing the datum to the query.

Examination of the cited lines does not show two of the above representation:

1. It is acceptable that Beall's database contains at least one information datum. In his case it represents a PRODUCT.

2. Beall's database DOES NOT contain items representing QUERIES.
3. Beall's database DOES NOT contain MEANS FOR ATTRIBUTING of any kind."

In this reply to office action made on 23 November 2001 the applicant argues that Beall does not teach a database that contains at least one datum, at least one item representing a query and means attributing the datum to the query.

The discussion of one point of the argument, without any reference to the argument itself and without representing the argument itself is misleading.

As for the argument made by the examiner:

The examiner writes: "The search string could include the name of an item, a part number for an item or any attribute of the item".

The argument made by the examiner is related to Beall's query (the search string) and not Beall's database.

The point made by the applicant is related to the database, which is not the same as the query.

As the examiner replaced the applicant's database with Beall's query the argument made by the examiner is based on wrong assumptions.

The examiner is thus kindly requested to allow the related claims.

Interview

In view of the difficulties in the evaluation of the present application the applicant approached the examiner with a request for an interview.

The interview took place on 20 June 2002. A revised set of claims was presented by the applicant for reference to possible solutions to allow the claims.

As the applicant has not received yet the summary issued by the examiner, the applicant provides here the summary made by himself.

Interview S. Al-Alam and H. Melman

20 June 2002 15:00 USPTO time.

The following interview summary was composed immediately after the interview and presented in the form of a dialog for convenience.

Claim 1.

Applicant:

I understand that a major issue brought in the office action is that claims do not include the point of query contained in the database. Therefore I suggest removing "at least one item representing". This will make the language of the claim more definite and will very clearly say the database contains a query.

Examiner:

Every database contains query.

Applicant:

No. Queries are used with database but are not stored there.

Examiner:

The query is not stored in the database but since query is used with every database to retrieve information then every database contains query. If I look at Beall abstract line 3 "accepts search terms from a user..." it means that the database contains a query.

Applicant:

So if I will replace the word "contains" (a query) with the word "stores" (a query) will this help.

Examiner:

Not really

Applicant:

I am talking about storing the query IN the database as a part of the data stored in the database. Database may contain address book or queries. Database of Address Book does not necessarily stores queries. In a regular database, after the process of search is over the queries are lost. No query is left. In the present invention the queries are stored in the database and they are stored there also after the search process is over.

The invention here is to store the queries in the database.

So if I use the word "store" or even "save (a query) will this help to express the difference?

Examiner:

This claim will still be too broad* ...and the claim is omnibus.

Applicant did not exactly understand omnibus** but understood "the claim is too broad" (without agreeing with this statement).

Following Applicant's request Examiner repeated the explanation of claim 1 being omnibus but Applicant did not understand what makes claim 1 omnibus.

Examiner repeated few times the claim is too broad and omnibus.

Examiner also said that except for Beall he can find thousands of prior art because query is used with every database).

Claim 2.

Examiner:

Adding the last part will require extra research.

Claim 3.

Examiner:

Will also require extra research.

Claim 4.

Examiner:

The changes may also require research

Applicant:

In your office action you did not refer to the issue of relating a stored query to a query undergoing composition process. If I then remove the broad claims and leave this one in the original language – will this be OK?

Examiner:

I can not tell you this.

Applicant:

What I think is may be, in the reply to office action, remove claims which you argued directly and leave claims such as #4 that you did not refer to in the office action. Will it make an acceptable solution?

Examiner:

I can not tell you that.

Applicant:

OK I think I have a general idea on how to proceed.

Examiner:

I will issue a summary of the interview.

You will get it in a letter in few days.

(*) Can “too broad” by itself be an argument for disallowing a claim?

(**) Omnibus: (looking for the definition of omnibus in USPTO).

Reviewing the reference below does not explain why Claim 1 is omnibus.

See <http://www.uspto.gov/web/offices/pac/dapp/oppd/35usc112.htm#nonstat>

35 U.S.C. 112 REJECTIONS NOT BASED ON PRIOR ART

SPECIALIZED SITUATIONS

- A. Aggregation - MPEP 2173.05(k)
- B. Incomplete Claims - MPEP 2173.05(l):
- C. Old Combination - MPEP 706.030(j)
- D. D. Res Judicata - MPEP 706.03 (w)
- E. Multiplicity - 37 CFR 1.75(b); MPEP 2173.05(n)
- F. Prolix - MPEP 2173.05(m)
- G. Nonstatutory or Omnibus Claim - MPEP 2173.05(r)

G. NONSTATUTORY OR OMNIBUS CLAIM - MPEP 2173.05(r)

- A. Example: A device substantially as shown and described.
- B. Format of rejection: Rejection is based on 35 U.S.C. 112, second paragraph.
- C. If case otherwise allowable, cancel by Examiner's Amendment - MPEP 1302.04(b).

See also: http://www.uspto.gov/web/offices/pac/mpep/mpep_e7r1_2100.pdf
Section 2173.05(r) Omnibus Claim.